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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	**BEFORE THE BOARD OF PATENT**
	)	**APPEALS AND INTERFERENCES**
Masaki KINOSHITA	)	
	)	Appeal No.:
Serial No. 09/369,335	)	
	)	Examiner: Tuan A. Tran
Filed: August 6, 1999	)	
	)	Group Art Unit: 2684
For: MOBILE TELEPHONE TERMINAL WITH IMPROVED UTILITY	)	July 17, 2002

BRIEF ON APPEAL

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is an appeal from the final rejection of claims 6-10 of the above-identified application, which claims were finally rejected in the Office action dated January 17, 2002. A Notice of Appeal was timely filed on May 17, 2002.

REAL PARTY IN INTEREST

The real party in interest in this case is Mitsubishi Denki Kabushiki Kaisha.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the present appeal.

STATUS OF THE CLAIMS

Claims 6-10 are pending in the application, and stand finally rejected. Claim 6 constitutes the independent claim on appeal. This appeal is directed to claims 6-10.

STATUS OF AMENDMENTS

No proposed amendment after final rejection has been filed in this application.

SUMMARY OF THE INVENTION

The present invention relates generally to the field of portable radiotelephone devices, and in particular to a mobile telephone terminal having a call answering function that plays different answering messages in accordance with the telephone number of the caller and the time of day. According to another aspect of the invention, the mobile telephone terminal is operable by a remote caller having an authenticated caller number, whereby certain functions of the mobile telephone terminal can be activated or modified remotely.

As shown in Fig. 1, the mobile telephone terminal according to the invention includes a controller 6, a time monitor 7, a remote operation controller 12, and a memory 8. The memory 8 includes a caller registration table as shown in Fig. 4. The caller registration table includes caller ID information (i.e., caller telephone number and associated name) and associated

answering message information corresponding to different times of day. In addition, the caller registration table includes information relating to time-dependent switching and to forced alerting of the user of the mobile telephone terminal (explained below). As shown at the bottom of Fig. 4, a number of different call answering messages are stored, wherein different messages may be played for different callers based on the identity of the caller as determined from the caller ID information sent to the mobile telephone terminal with the call, and also based on the time of day.

Fig. 3 shows a process for answering an incoming call according to an embodiment of the invention. After expiration of a predetermined amount of time during which the user has not answered the incoming call as determined in step ST303, the mobile terminal answers the call at step ST304, and obtains the caller ID data at step ST305. At step ST306 the terminal checks whether the received caller ID information is registered in the caller registration table. If not, the terminal plays a preset generic answering message at step ST317.

If the caller ID information is present in the registration table, then a forced alert check is carried out at step ST307. If the forced alert function is set for the particular caller, then the call proceeds at step ST308. This function alerts the user of the mobile terminal that an incoming call is from a particular caller to whom the user wishes to speak. Accordingly,

the terminal will not automatically answer the call but will allow the incoming call to continue ringing.

If the forced alert is not set, then the terminal first determines whether time-dependent message switching is set for the particular caller ID, at step ST311. If not, then the terminal plays the predetermined message for the caller at step ST316. If time-dependent switching is set for the caller, then at steps ST312-ST313-ST315, the appropriate predetermined message for the caller is selected based on time of day, and played to the caller. The caller is allowed to record a message at step ST314. These operations are described in the specification at page 10, line 18 to page 12, line 30.

According to another aspect of the invention as shown in Fig. 5, a user of the mobile telephone terminal who has misplaced the terminal, inadvertently left the terminal at a certain location, or has had the mobile terminal stolen, may call the terminal from a preselected authorized telephone number to set a remote control function of the terminal. In Fig. 5, the user may lock out the terminal from dialing to prevent the use of the terminal to make outgoing calls. Once the caller ID has been recognized as being authorized at step ST503, the terminal receives an inputted code from the user at step ST506, and after verifying the code at step ST507, sets the locked dialing option at step ST508. Fig. 6 shows a similar remote control operation wherein a voice mail option is set by the user remotely from a

predetermined telephone number.

ISSUES

This appeal presents the following issues for decision by the Board:

1) Whether claim 6 is unpatentable under 35 U.S.C. § 103 over Sheerin, U.S. Patent No. 5,748,709, in view of Drake, U.S. Patent No. 5,832,062 and is properly rejected on that basis;

2) Whether claim 7 is unpatentable under 35 U.S.C. § 103(a) over Sheerin in view of Drake, and further in view of Fuller et al., U.S. Patent No. 5,610,970 ("Fuller"), and is properly rejected on that basis;

3) Whether claim 8 is unpatentable under 35 U.S.C. § 103(a) over Sheerin in view of Drake, and further in view of Chin, U.S. Patent No. 5,661,788, and is properly rejected on that basis; and

4) Whether claims 9 and 10 are unpatentable under 35 U.S.C. § 103(a) over Sheerin in view of Drake, and further in view of Oshima, U.S. Patent No. 6,081,704, and are properly rejected on that basis.

GROUPING OF CLAIMS

Claim 9 does not stand or fall together with claim 10 but will be separately argued in this appeal.

ARGUMENT

The Rejection of Claims 6-10 Is Improper

The final Office action alleges that Sheerin discloses a programmable answering machine that includes a caller number storage, an answering message storage, and answering message selecting means for selecting an outgoing message based on the identity of the calling party. The Office action alleges that Drake discloses the generation of a call answering message based on the date and time of the received call, and proposes to add this feature to the Sheerin device, to allegedly arrive at the invention set forth in claim 6. This ground of rejection is improper and should be reversed.

Sheerin discloses a multiple user answering machine having a different voice mailbox for each user of the machine. Each user has an individual call answering message stored in his mailbox that is played to a caller directed to that voice mailbox. In addition, there is a general or "home" voice mailbox. The Sheerin system contains a database of caller ID information associated with user voice mailbox identification.

When an incoming call is received, the caller ID information is checked against the database to determine whether it is associated with a particular user's mailbox. If so, the system plays a call answering message associated with the user's

mailbox, and the caller leaves a voice message in the user's mailbox. If not, the caller is routed to the home mailbox where an answering message is played and the caller leaves a message in the home mailbox.

Drake discloses an automated voice message generation system, wherein a user's appointment data as entered into a computer system is used to generate a call answering message based on the date and time of the received call. For instance, if an incoming call is received at 10 a.m. on September 7, the system checks to determine if appointment data exists for that date and time. If so, the appointment text data is sent to a voice synthesizer to generate an answering message incorporating the appointment text data so as to specify to the caller the reason that the user is not available to answer the call.

In both Sheerin and Drake, and contrary to the invention set forth in claim 6, every caller to a specific user will receive the same message. In other words, both Sheerin and Drake disclose the customization of a call answering message based on the identity of the called party only, not the calling party. In contrast, according to the present invention, a caller to a mobile communication terminal will receive a call answering message that is associated with the caller ID and the time of the incoming call. Consequently, no combination of Sheerin and Drake would achieve the invention of claim 6, wherein incoming calls

for the same user of the mobile communication terminal are capable of receiving different call answering messages based on the received caller ID, and the time that the incoming call from a particular caller as identified by the caller ID is received.

The Examiner asserts that Appellant's position is wrong, because "Sheerin discloses a call-answering message based on the identity of the calling party (See figs. 1, 3 and col. 4 line 47 to col. 5 line 19)." The cited passage from Sheerin discloses that, as explained above, the Sheerin multi-user answering machine compares incoming caller ID information with the database, and when the database indicates that the caller ID is associated with an individual's mailbox, the machine routes an outgoing message associated with that individual' voice mailbox to the caller.

Unlike the Sheerin device, claim 6 requires that incoming calls for the same user of said mobile communication terminal are capable of receiving different call answering messages based on the received caller ID, and the time that the incoming call from a particular caller as identified by said caller ID is received. Sheerin simply fails to disclose this feature, as does Drake.

Contrary to the Examiner's position, each individual voice mailbox in Sheerin is associated with a different user, not the same user. See Fig.1, reference numeral 8 which discloses different users of the answering machine John, Tom and Mary.

Each caller for Tom, for example, as determined by caller ID information in the database associated with Tom's mailbox, will receive the same answering message. In contradistinction, claim 6 requires incoming calls for the same user of said mobile communication terminal be capable of receiving different call answering messages based on the received caller ID.

The Examiner has not come to terms with this specific requirement of claim 6; the Advisory action dated May 16, 2002 simply repeats the Examiner's position that "the answering machine [of Sheerin] will rout *(sic)* an incoming call based on caller ID to an individual voice box." But the Examiner has not shown how different callers to the same "individual voice box" may be presented with different messages, as disclosed and claimed in the present application.

In this regard, it is noted that claim 6 is directed to a mobile communication terminal. Neither Sheerin nor Drake relates to a mobile communication terminal, or anywhere suggests any modification to a mobile communication terminal.

The Rejection of Claim 7 Is Improper

Claim 7 depends from claim 6 and adds the further limitation of a time-dependent control code to the preselected caller ID information stored in the caller ID storage device, which designates different call answering messages for incoming calls depending upon the time that a particular call is received.

The Examiner alleges that Fuller discloses programmable "mode memories" which "refer to database and determine the correct handling method for the day of week, and time of day, and deliver the call accordingly." The Examiner proposes to include such mode memories in the proposed Sheerin/Drake combination.

However, a mode memory as disclosed by Fuller does not correspond to a time-dependent code associated with a caller's number as stored in a caller ID information storage. As such, no combination of Fuller with Sheerin/Drake could result in the invention of claim 7, notwithstanding the shortcomings of the Sheerin/Drake combination. Accordingly, this ground of rejection is untenable and should be reversed.

The Rejection of Claim 8 Is Improper

Claim 8 depends from claim 6, and includes the further limitation of a forced alert control code associated with a caller's number in a preselected caller ID information table, to alert a user of the presence of an incoming call.

Chin discloses a method for selectively alerting a user of an incoming call by enabling the user to select a receive mode of the telephone system. Receive modes can be selected such that the user is alerted to all incoming calls; no incoming calls; all calls from telephone numbers currently stored in selection telephone number memory 112 (Fig. 1); or only calls from specific telephone numbers in memory 112 that are selected by the user.

Chin fails to cure the deficiencies of Sheerin/Drake with respect to claim 6, and additionally fails to disclose a forced-alert control code associated with preselected caller ID information stored in a caller registration table. Instead, Chin discloses the use of different receive modes which control the processing of incoming calls. The receive mode does not correspond to a forced alert control code associated with particular caller numbers, but rather is a command to a CPU that determines how the CPU processes incoming calls. The rejection of claim 8 is thus improper and should be reversed.

The Rejection of Claims 9 and 10 Is Improper

Claim 9 requires that the preselected caller ID information stored in the caller registration table include a locked dialing control code associated with a caller's number to allow a caller to set a locked dialing option in a mobile communication terminal.

Oshima discloses the use of a remote lock number inputted to a mobile station for inhibiting key operations; however, Oshima does not disclose a locked dialing control code associated with a caller's number to allow a caller to set a locked dialing option.

Claim 10 requires that the preselected caller ID information stored in the caller registration table include a voice mail control code associated with a caller's number to allow a caller to set a voice mail function in a mobile communication terminal.

The Examiner has admitted that Oshima does not disclose the limitations of claim 10, but instead has taken "official notice" that "the control codes can be modify *(sic)* to allow user *(sic)* to set up the voice mail." Again, Oshima does not disclose any control code associated with preselected caller ID information stored in a registration table. Consequently, there exists no basis for the Examiner's official notice. For a claim to be unpatentable, the subject matter claimed must be found in the prior art. The Examiner cannot properly substitute "official notice" that what the applicant is claiming is not new or unobvious, when the Examiner has failed to produce any evidence supporting such conclusion.

Consequently, the rejection of claims 9 and 10 also is improper and should be reversed.

CONCLUSION

In view of the foregoing, claims 6-10 are submitted to be directed to a new and unobvious mobile communication terminal with call answering capabilities as set forth therein, which is not taught or suggested by the prior art. The Honorable Board is respectfully requested to reverse all grounds of rejection and to direct the passage of this application to issue.

Please charge any fee or credit any overpayment pursuant to 37 CFR 1.16 or 1.17 to Deposit Account No. 02-2135.

Respectfully submitted,

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APPENDIX OF CLAIMS ON APPEAL

6. A mobile communication terminal, comprising:

a time monitor that detects the time that an incoming call signal is received from an originating terminal, said incoming call signal including caller ID information;

a caller ID storage device that stores preselected caller ID information and associates specific call answering message information with each stored caller ID, wherein at least one caller ID has associated therewith different call answering messages based on the time that said incoming call signal is received;

a call answering message storage device for storing call answering messages associated with specific call answering message information stored in said caller ID storage device, and a preset call answering message not associated with any call answering message information in said caller ID storage device; and

a call answering message selector that receives an incoming call signal caller ID and receives from said time monitor the time that the incoming call signal is received, determines whether said incoming call signal caller ID is stored in said caller ID storage device, and if so whether different call answering message information is stored for said incoming call signal caller ID based on the time that said incoming call is received, retrieves a call answering message from said call answering message storage device based on the results of said

determinations, and outputs said retrieved call answering message when a user of said mobile communication terminal has failed to answer said incoming call;

whereby incoming calls for the same user of said mobile communication terminal are capable of receiving different call answering messages based on the received caller ID, and the time that the incoming call from a particular caller as identified by said caller ID is received.

7. A mobile communication terminal as set forth in claim 6, wherein said preselected caller ID information includes a caller's number and a caller's name corresponding to the caller's number, and a time-dependent control code associated with a caller's number for designating different call answering messages for answering incoming calls depending upon the time that a particular call is received from a caller having caller ID information stored in said caller ID storage device.

8. A mobile communication terminal as set forth in claim 6, wherein said preselected caller ID information includes a caller's number and a caller's name corresponding to the caller's number, and a forced alert control code associated with a caller's number for triggering a forced alert option to alert a user of the mobile communication terminal of the presence of an incoming call from a caller having a forced alert control code

associated with said caller ID information stored in said caller ID storage device.

9. A mobile communication terminal as set forth in claim 6, wherein said preselected caller ID information includes a caller's number and a caller's name corresponding to the caller's number, and a locked dialing control code associated with a caller's number for allowing a caller to set a locked dialing option in said mobile communication terminal to prevent said mobile communication terminal from being used to make outgoing calls, whereby a user who has lost or misplaced the mobile communication terminal may call the terminal from a predesignated calling terminal to prevent the mobile communication terminal from being used by unauthorized persons.

10. A mobile communication terminal as set forth in claim 6, wherein said preselected caller ID information includes a caller's number and a caller's name corresponding to the caller's number, and a voice mail control code associated with a caller's number for allowing a caller to set a voice mail option in said mobile communication terminal from a predesignated calling terminal whereby a voice mail function in said mobile communication terminal may be set up remotely by an authorized user as identified from said stored caller number.